ase 3:04-cv-00049-JWS	Document 374	Filed 08/28/2008	Page 1 of 3						
LUKE W. COLE, California Bar No. 145,505 CAROLINE FARRELL, California Bar No. 202,871									
Center on Race, Poverty, & the Environment									
San Francisco, CA, 94108									
Law Offices of Nancy S. Wainwright									
5 13030 Back Road, Suite 555 Anchorage, AK 99515-3538 7 907/345-5595 • fax 907/345-3629									
Adams, Andrew Koenig, Jerry Norton and Joseph Swan									
IN THE UNITED STATES DISTRICT COURT									
FOR THE DISTRICT OF ALASKA AT ANCHORAGE									
ENOCH ADAMS ID 1 ER	OV ADAMS	Casa No.	A 0.4 .40 (TWS)						
ANDREW KOENIG, JERR	Y NORTON		OTION FOR LEAVE FIRST AMENDED						
	II SWAIN,	TO FILE I							
		REVISED	COMPLAINT FOR						
	A INC∩RP∩RATE	DECLAR	ATORY RELIEF IL PENALTIES						
	A IIVORI ORATEI	D AND CIV	IL I LIVALIILS						
——————————————————————————————————————		Fodoral W	atar Pollution Control						
			Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 to 1287						
Intervenors-Defenda	nts.								
As this court is aware, the parties have reached a settlement. In order to make clear to all									
concerned that the settlement extends to all claims that might be asserted for alleged violations of									
Teck Cominco's NPDES permits through to the date of settlement, the parties have agreed to									
allow the plaintiffs to amend their Supplemental Revised Complaint to assert additional claims as might be alleged for the period of July 1, 2007 (following the period encompassed by the									
							Joint Motion for Leave to File First Amended Supplemental Rev	ised Complaint	
	LUKE W. COLE, California CAROLINE FARRELL, Ca BRENT J. NEWELL, Califo Center on Race, Poverty, & 47 Kearny Street, Suite 804 San Francisco, CA, 94108 415/346-4179 • fax 415/34 NANCY S. WAINWRIGHT Law Offices of Nancy S. Wainorage, AK 99515-3538 907/345-5595 • fax 907/345 Anchorage, AK 99515-3538 907/345-5595 • fax 907/345 Antorneys for Plaintiffs Enor Adams, Andrew Koenig, Jen The FOR THE ENOCH ADAMS, JR., LEF ANDREW KOENIG, JERR DAVID SWAN and JOSEP Plaintiffs, v. TECK COMINCO ALASK Defendant. NANA REGIONAL CORPONORTHWEST ARCTIC BOUNDED For ARCTIC BOUNDED	LUKE W. COLE, California Bar No. 145,505 CAROLINE FARRELL, California Bar No. 202 BRENT J. NEWELL, California Bar No. 210,31 Center on Race, Poverty, & the Environment 47 Kearny Street, Suite 804 San Francisco, CA, 94108 415/346-4179 • fax 415/346-8723 NANCY S. WAINWRIGHT, Alaska Bar No. 8' Law Offices of Nancy S. Wainwright 13030 Back Road, Suite 555 Anchorage, AK 99515-3538 907/345-5595 • fax 907/345-3629 Attorneys for Plaintiffs Enoch Adams, Jr., Leroy Adams, Andrew Koenig, Jerry Norton and Josep IN THE UNITED STA' FOR THE DISTRICT OF A ENOCH ADAMS, JR., LEROY ADAMS, ANDREW KOENIG, JERRY NORTON DAVID SWAN and JOSEPH SWAN, Plaintiffs, v. TECK COMINCO ALASKA INCORPORATE Defendant. NANA REGIONAL CORPORATION and NORTHWEST ARCTIC BOROUGH, Intervenors-Defendants. As this court is aware, the parties have re concerned that the settlement extends to all clain Teck Cominco's NPDES permits through to the allow the plaintiffs to amend their Supplemental as might be alleged for the period of July 1, 200	LUKE W. COLE, California Bar No. 145,505 CAROLINE FARRELL, California Bar No. 202,871 BRENT J. NEWELL, California Bar No. 210,312 Center on Race, Poverty, & the Environment 47 Kearny Street, Suite 804 San Francisco, CA, 94108 415/346-4179 • fax 415/346-8723 NANCY S. WAINWRIGHT, Alaska Bar No. 8711071 Law Offices of Nancy S. Wainwright 13030 Back Road, Suite 555 Anchorage, AK 99515-3538 907/345-5595 • fax 907/345-3629 Attorneys for Plaintiffs Enoch Adams, Jr., Leroy Adams, Andrew Koenig, Jerry Norton and Joseph Swan IN THE UNITED STATES DISTRICT COUNTY Adams, Andrew Koenig, Jerry Norton and Joseph Swan IN THE UNITED STATES DISTRICT COUNTY Adams, Andrew Koenig, Jerry Norton and Joseph Swan IN THE UNITED STATES DISTRICT COUNTY Adams, ANDREW KOENIG, JERRY NORTON DAVID SWAN and JOSEPH SWAN, Plaintiffs, V. TECK COMINCO ALASKA INCORPORATED Defendant. NANA REGIONAL CORPORATION and NORTHWEST ARCTIC BOROUGH, Intervenors-Defendants. As this court is aware, the parties have reached a settlement. In concerned that the settlement extends to all claims that might be assert Teck Cominco's NPDES permits through to the date of settlement, the allow the plaintiffs to amend their Supplemental Revised Complaint to as might be alleged for the period of July 1, 2007 (following the period Joint Motion for Leave to File						

1	existing amended complaint) through May 13, 2008 (immediately prior to the date of settlement					
2	Teck Cominco and NANA dispute liability for the claims to be added by amendment, and all					
3						
	defendants dispute that any penalty would be warranted if the claims were to proceed to trial. A					
4	copy of the proposed amended complaint is lodged herewith. The parties intend to submit a					
5	proposed consent decree to the court following its ruling on the instant motion.					
6	Dated this 28th day of August 2008.					
7	Respectfully submitted,					
8	CENTER ON RACE, POVERTY & THE ENVIRONMENT					
10						
11	<u>/S/ Luke Cole</u> Luke Cole					
	Center on Race, Poverty & the Environment					
12	47 Kearny Street, Suite 804 San Francisco, CA 94108					
13	415-346-4179 x2 Fax: 415-346-8723					
14	Email: luke@igc.org					
15	CA Bar No. 145505 (appearing <i>pro hac vice</i>)					
16	LAW OFFICES OF NANCY S. WAINWRIGHT					
17	/S/ Nancy Wainwright					
18	Nancy S. Wainwright Law Offices of Nancy S. Wainwright					
	13030 Back Road, Suite 555					
19	Anchorage, AK 99515-3538 907/345-5595 • fax 907/345-3629					
20	Alaska Bar No. 8711071					
21	Attorneys for Plaintiffs Enoch Adams, Jr., Leroy Adams, Andrew Koenig,					
22	Jerry Norton, David Swan and Joseph Swan					
23						
24	HELLER EHRMAN WHITE & MCAULIFFE Attorneys for Nana Regional Corporation					
25	/S/ James F. Targarson (gangant)					
26	/S/ James E. Torgerson (consent) James E. Torgerson					
27						
28						
-	Joint Motion for Leave to File					

¢	ase 3:04-cv-00049-JWS	Document 374	Filed 08/	/28/2008	Page 3 of 3				
1 2	HARTIG RHODES HOGE & LEKISCH, P.C. Attorneys for Teck Cominco Alaska Incorporated								
3			/S/ Sean Hal	loran (conse	ent)				
4	/S/ Sean Halloran (consent)								
5	LANDYE BENNETT BLUMSTEIN LLP Attorney for Northwest Arctic Borough								
6									
7	/S/ David S. Case (consent)								
8	CERTIFICATE OF SERVICE I hereby certify that on the 28th day of August 2008, a true and correct copy of the foregoing Joint Motion for Leave to File First								
9	Amended Supplemental Revised Complaint, along withe the Proposed First Amended Supplmental Revised Complaint, was served, via the Court's electronic mail distribution system, on the below identified counsel of record:								
10	Sean Halloran Hartig Rhodes	Nancy Wainwright 13030 Back Road, St	uite 555	Thane Tienson Landye Benne					
11	717 K Street Anchorage, AK 99501	Anchorage, AK 9950		•	Ave, Suite 3500				
12	James E. Torgerson	Γ	David S. Case	Tornana, Ore	,,201				
13	Heller Ehrman White & McAuliffe LI 510 L Street, Suite 500	Landye Bennett 701 W. 8 th Avenue, Suite 1200							
14	Anchorage, Alaska 99501-1959		nchorage, AK 99501						
15	/S/ Luke Cole Luke Cole								
16									
17									
18									
19 20									
21									
22									
23									
24									
25									
26									
27									
28									
	Joint Motion for Leave to File First Amended Supplemental Revi	sed Complaint	- 2 -						